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# LATHAM & WATKINS LLP

November 5, 2019

**Via ECF Filing**

The Honorable Nancy Torresen  
United States District Court for the District of Maine  
Edward T. Gignoux U.S. Courthouse  
156 Federal Street  
Portland, ME 04101

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Re: *Comcast of Maine/New Hampshire, et al. v. Mills, et al.*  
Docket No. 1:19-cv-00410-NT

Dear Judge Torresen:

I am writing in response to the State Defendants' November 4, 2019 letter regarding the above-captioned matter. The Assistant Attorney General cites case law in support of the State's argument that the Court should construe L.D. 832 to apply only to cable tiers other than the federally mandated basic tier. Assuming arguendo that this proposition is correct, it is immaterial to the ultimate outcome of this case.

Even if the Court adopts the State Defendants' preferred interpretation of L.D. 832, federal law would still preempt the statute. While the State's interpretation might save L.D. 832 from conflict preemption, the statute remains expressly preempted under 47 U.S.C. § 544(f). And, if the Court held otherwise, it would necessarily have to opine on the constitutionality of L.D. 832 because removing editorial discretion over tiers other than the basic tier infringes on cable operators' and programmers' First Amendment rights. *See Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 636 (1994).

Respectfully,

/s/ Matthew A. Brill

Matthew A. Brill  
of LATHAM & WATKINS LLP

cc: All Counsel of Record  
(via ECF)